

**REMARKS**

Claims 1-40 are pending in the Application. Claims 1-40 stand rejected. Claims 1, 14, 27, and 40 are being amended. Support for the amendments can be found on at least page 6, lines 11-15; and page 9, line 8-page 10, line 4, referring to FIG. 2, of the Specification as originally filed. Applicants believe no new matter is being introduced by way of the amendments.

Claims 1-40 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication Number 2003/0193696 Walker *et al.* (hereafter “Walker”) in view of U.S. Patent Publication Number 2002/0080730 LeBlanc *et al.* (hereafter “LeBlanc”). Applicants respectfully disagree.

Applicants’ amended Claim 1 recites, in pertinent part, “while remaining in the voice band data mode with silence detection enabled, in response to detecting silence for a predetermined length of time, enabling voice detection,” where the underlined text indicates elements added by way of amendment.

Applicants’ invention of Claim 1 has a low rate of false voice detection in VBD mode by first enabling silence detection and, if silence detection detects silence in the voice band signal associated with a VOIP call, the claimed invention enables voice detection while remaining in VBD mode with silence detection enabled. See Specification, page 6, lines 11-15 and FIG. 2 (while remaining in VBD mode between block 220 “Switch to VBD mode” and block 245 “Switch to Voice Mode,” enable silence detection at block 220 and enable voice detection at block 240). The claimed invention exits VBD mode and enters voice mode if voice detection detects voice. *Id.*

In contrast, the proposed Walker-LeBlanc combination (Walker-LeBlanc), in response to detecting silence, does not remain in the voice band data (VBD) mode, but, instead, transitions to voice mode. See Walker [0059], FIG. 3A state transition or 8. By transitioning to voice mode and not remaining in VBD mode when silence is detected, Walker-LeBlanc may false detect voice and terminate VBD services erroneously.

In further contrast, during VBD mode, the proposed Walker-LeBlanc combination monitors for speech, but does not monitor of silence. See LeBlanc, paragraph [0034]. By

monitoring for speech without monitoring for silence during VBD mode, Walker-LeBlanc relies on a voice detection algorithm of its human speech detector to eliminate false voice detection. However, no voice detection algorithm can completely avoid false detections due to unpredictable characteristic of some modem training sequences used during VBD mode. *See* Specification, page 1, line 14- page 1, line 12. Applicants' invention of Claim 1 eliminates false voice detection in VBD mode by first enabling silence detection and, if silence detection detects silence in the voice band signal associated with a VOIP call, the claimed invention enables a voice detection while remaining in VBD mode with silence detection enabled. *See* Specification, page 6, lines 11-15 and FIG. 2 (while remaining in VBD mode between block 220 "Switch to VBD mode" and block 245 "Switch to Voice Mode," enable silence detection at block 220 and enable voice detection at block 240). The claimed invention exits VBD mode and enters voice mode if voice detection detects voice. *Id.*

Moreover, as reasoned previously, because the proposed Walker-LeBlanc combination enters voice mode after detecting silence, to make the Walker-LeBlanc combination work in a similar manner as Applicants' invention of Claim 1, substantial reconstruction and redesign would be required. *See* MPEP § 2143.02 (VI) (proposed modification cannot change principle of operation of reference). For example, for the Walker-LeBlanc combination to work in a similar manner as Applicants' invention of Claim 1, *viz.*, "while remaining in the voice band data mode with silence detection enabled, in response to detecting silence for a predetermined length of time, enabling voice detection," Walker must be modified to refrain from entering voice mode and remain in voice band data mode after detecting silence. This would hinder the ability for Walker's media gateway to transition autonomously. *See* Walker, paragraph [0059]. Even if the Walker-LeBlanc combination could be so modified, which it cannot, such a modification amounts to impermissible hindsight.

Because neither Walker nor LeBlanc, either alone or in combination, teaches, suggests, or provides motivation for the independent Claim 1 ("while remaining in the voice band data mode with silence detection enabled, in response to detecting silence for a predetermined length of time, enabling voice detection"), Applicants respectfully submit that Claim 1 should be allowable under 35 U.S.C. 103(a) over Walker in view of LeBlanc.

Independent Claims 14, 27, and 40 recite similar elements and should be allowable for at least the same reasons.

Because Claims 2-13 depend from Claim 1, Claims 15-26 depend from Claim 14, and Claims 28-39 depend from Claim 27, Applicants respectfully submit these claims should be allowable under 35 U.S.C. 103(a) over Walker in view of LeBlanc for at least the same reasons as the base claims from which they depend.

### **CONCLUSION**

In view of the above amendments and remarks, it is believed that all claims, claims 1-40, are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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